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SENATE

{ REPORT  
106-67

### MOTION PICTURE FEES IN NATIONAL PARK SYSTEM UNITS

JUNE 7, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany H.R. 154]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 154) to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes, having considered the same, reports favorably therein with an amendment and an amendment to the title and recommends that the act, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. COMMERCIAL FILMING

(a) **COMMERCIAL FILMING FEE.**—The Secretary of the Interior and the Secretary of Agriculture (hereinafter individually referred to as the “Secretary” with respect to lands under their respective jurisdiction) shall require a permit and shall establish a reasonable fee for commercial filming activities or similar projects on Federal lands administered by the Secretary. Such fee shall provide a fair return to the United States and shall be based upon the following criteria:

(1) the number of days the filming activity or similar project takes place on Federal land under the Secretary’s jurisdiction;

(2) the size of the film crew present on Federal land under the Secretary’s jurisdiction; and

(3) the amount and type of equipment present.

The Secretary may include other factors in determining an appropriate fee as the Secretary deems necessary.

(b) **RECOVERY OF COSTS.**—The Secretary shall also collect any costs incurred as a result of filming activities or similar projects, including but not limited to administrative and personnel costs. All costs recovered shall be in addition to the fee assessed in subsection (a).

(c) **STILL PHOTOGRAPHY.**—(1) Except as provided in paragraph (2), the Secretary shall not require a permit nor assess a fee for still photography on lands administered by the Secretary if such photography takes place where members of the public

are generally allowed. The Secretary may require a permit, fee, or both, if such photography takes place at other locations where members of the public are generally not allowed, or where additional administrative costs are likely.

(2) The Secretary shall require a permit and shall establish a reasonable fee for still photography that uses models or props which are not a part of the site's natural or cultural resources or administrative facilities.

(d) PROTECTION OF RESOURCES.—The Secretary shall not permit any filming, still photography or other related activity if the Secretary determines—

(1) there is a likelihood of resource damage;

(2) there would be an unreasonable disruption of the public's use and enjoyment of the site; or

(3) that the activity poses health or safety risks to the public.

(e) USE OF PROCEEDS.—(1) All fees collected under this Act shall be available for expenditure by the Secretary, without further appropriation, in accordance with the formula and purposes established for the Recreational Fee Demonstration Program (Public Law 104–134). All fees collected shall remain available until expended.

(2) All costs recovered under this Act shall be available for expenditure by the Secretary, without further appropriation, at the site where collected. All costs recovered shall remain available until expended.

(f) PROCESSING OF PERMIT APPLICATIONS.—The Secretary shall establish a process to ensure that permit applications for commercial filming, still photography, or other activity are responded to in a timely manner.

2. Amend the title so as to read “An Act to allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes”.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 154, as ordered reported, is to authorize the Secretary of the Interior and the Secretary of Agriculture to assess fees for commercial filming activities on Federal lands, and to retain the revenues collected in accordance with the Recreational Fee Demonstration Program.

#### BACKGROUND AND NEED

Although commercial filming is allowed on most Federal lands, each agency has different policies and authorities. It is generally the policy of Federal land management agencies to allow photography and filming when consistent with the protection and public enjoyment of resources. In addition to the entertainment and other values that may be communicated using visual information, many of the films produced in parks also may carry an environmental and educational message to the public.

*National Park Service.*—In units of the National Park Service manages filming activities to ensure that the natural, historical, and cultural resources are protected, and that filming should not conflict with the public's normal use of the park. Permits are not needed when filming for personal use, for media and news events and for commercial still photography (unless it involves a product or service advertisement or the use of models, sets, or props). The park manager determines if a proposed filming or photography activity falls into the category of a normal visitor activity, a First Amendment right or a special park use requiring a permit.

While filming conditions may be imposed, the Park Service may not reserve the right to approve the script or the film produced in the National Park System area as a condition of the permit. Under 43 CFR 5.1(a) a bond or cash deposit may be required in amounts equal to the estimated cost to the Park Service for cleanup or res-

toration that would be required if the permittee failed to meet permit conditions. General liability insurance is also required to protect the Park Service against claims connected with injury or damage from action of the permittee.

Filming activities authorized by permit are monitored by National Park Service employees to assure compliance with the terms and conditions of the permit. The Park Service is currently prohibited by regulation (43 CFR 5.1(b)) from charging a fee for filming within the parks. The National Park Service does have the authority to recover costs associated with processing permit requests and monitoring a shoot. The Park Service is also allowed to accept voluntary contributions, though it is prohibited from soliciting them.

In February 1998, the Park Service solicited public review and comment on its revised guideline for filming and photography. Fifteen responses were received and a summary of those comments was produced in September 1998.

The National Park Service reviewed the permits issued for filming between 1990 and 1997. The report indicated that 16 park units issued the most permits (about 2800) between 1995 and 1997. Many of the permits were for small productions; some of which were commercial in nature, others of which were educational. However, the Park Service does issue a significant number of permits to makers of major motion pictures parks and have played important roles in many high-grossing films. Examples include:

- White Sands National Monument and Death Valley National Monument were used in the movie “Star Wars”;

- The Linville Falls Trail in Blue Ridge Parkway was used for the ambush scene in “Last of the Mohicans”;

- “Dances with Wolves” was filmed in part in the Badlands National Park;

- “In the Line of Fire” was filmed at several National Park Service sites throughout the National Capital Region.

*Bureau of Land Management.*—The Bureau of Land Management (BLM) has authority under 43 CFR 2920 to issue permits for filming on public lands. Permits are issued for both commercial motion picture filming and still photography. Requests are generally handled at the local field level and each of its State offices set its own schedules. Three States (California, Utah and Nevada) process the vast majority of permits. Most permits are for commercials, both print and television, although some are for feature length movies and television productions. Both rental fees and cost recovery fees are charged. For instance, in California the rental fee ranges from \$250 per day to \$600 per day depending upon the number of people at the site. About \$300,000 in rental fees in collected annually and deposited into the general Treasury. Cost recovery fees include processing and monitoring; the minimum processing fee is \$125 with a \$50 monitoring fee. However, when extensive monitoring is required, cost recovery fees can be substantial. The BLM issues approximately 1000 permits per year.

*Forest Service.*—The Forest Service has authority under 36 CFR 251.50 to charge fair market value for filming. It allows its regional offices to set schedules. For example, the Pacific Southwest Regional Office has set fees up to \$600 per day for filming in sites in California. Between 1500 and 2000 permits are issued each year

and between \$500,000 and \$1 million is collected from commercial filming permits. All of the revenue is currently returned to the U.S. Treasury and deposited as miscellaneous receipts. Permits are not required for still photographs except when (1) commercial photographers take pictures of public land users with the express purpose of selling the photographs; (2) the photography features a commercial product; or (3) when the photography would adversely impact the public lands. The Administration's Fiscal Year 2000 Forest Service's legislative proposals include authority for the Secretary of Agriculture to retain and expend, without further appropriation, commercial filming fee revenues.

As ordered reported, H.R. 154 will standardize the authorities for all Federal land management agencies and allow them to retain all fees and costs collected.

#### LEGISLATIVE HISTORY

H.R. 154 was passed by the House of Representatives on April 13, 1999 and was referred to the Committee on Energy and Natural Resources.

On March 24, 1999 the Subcommittee on National Parks, Historic Preservation and recreation held a hearing on two similar, but not identical, bills: S. 338, a bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in units of the Department of the Interior, and for other purposes; and S. 568, a bill to allow the Department of the Interior and the Department of Agriculture to establish a fee system for commercial filming activities in a site or resource under their jurisdictions.

At its business meeting on May 19, 1999, the Committee on Energy and Natural Resources ordered H.R. 154, favorably reported, as amended.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 19, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 154, as amended as described herein.

#### COMMITTEE AMENDMENT

During its consideration of H.R. 154 the Committee adopted an amendment in the nature of a substitute. As passed by the House of Representatives, H.R. 154 would apply to filming activities on lands administered by the National Park Service and U.S. Fish and Wildlife Service. The Committee amendment includes all areas administered by the Secretary of the Interior as well as National Forest System lands administered by Secretary of Agriculture.

The amendment directs the Secretary of Agriculture and the Secretary of the Interior to require a permit and establish a reasonable fee for commercial filming activities or similar activities or projects on lands under their respective jurisdiction. Fees are to be based on specific criteria including the number of days of filming activity on Federal lands; the size of the crew; and the amount and type of equipment present.

The amendment directs the Secretaries to recover administrative and personnel cost incurred by the United States with the permitted activity.

The amendment further directs the Secretaries to only require a permit and fee for still photography if the activity takes place where members of the general public are generally not allowed or if the activity requires the use of models or props.

The amendment also directs the Secretaries to not permit any filming or photography if there is a likelihood of resource damage; or if there would be an unreasonable disruption of the public's use and enjoyment of the site; and/or the activity poses health or safety risks to the public.

Finally the Secretaries are directed to establish a process to ensure that permit applications are responded to in a timely manner.

The title of the bill was amended to include both the Secretary of Agriculture and the Secretary of the Interior to reflect that the provisions of this legislation would apply to all land management agencies under their respective jurisdiction.

#### SECTION BY SECTION ANALYSIS

*Section 1* (a) directs the Secretary of the Interior and the Secretary of Agriculture (with respect to lands under their jurisdictions) to require a permit and establish a reasonable fee for commercial filming activities or similar projects on Federal land administered by each Secretary. The fee must provide fair return to the United States and be based on the following criteria:

- the number of days the filming or similar project takes place on Federal land under the Secretary's jurisdiction;
- the size of the crew present on Federal land under the Secretary's jurisdiction;
- the amount and type of equipment present.

The Secretary may include other factors in determining appropriate fees.

Subsection (b) directs the Secretary (Interior or Agriculture, as appropriate) to also collect incurred costs as a result of the filming or similar projects, including but not limited to administrative and personnel costs. These costs are to be in addition to the fee from subsection (a).

Subsection (c) exempts still photography from permits and fees if it takes place where members of the public are generally allowed. However, the Secretary may require a permit, fee or both if the photography takes place where members of the general public are not generally allowed or if additional administrative costs are likely. But, the Secretary must require a permit and must establish a reasonable fee for still photography that uses models or props which are not part of a site's natural and cultural resources or administrative facilities.

Subsection (d) directs the Secretary not to permit filming, still photography or related activity if the Secretary determines there is the likelihood of resource damage or there would be an unreasonable disruption of the public's use and enjoyment of the site or if the activity poses health or safety risks to the public.

Subsection (e) provides that the fees collected are to be available for expenditure by the Secretary, without further appropriation, in

accordance with the formula and purposes established for the Recreational Fee Demonstration Program (Public Law 104-134) and are to remain available until expended. In addition, all costs recovered are to be available for expenditure by the Secretary, without further appropriation, and are to remain available until expended.

Subsection (f) directs the Secretary to establish a process to ensure permit applications for commercial filming, still photography, or other activity are responded to a timely manner.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 26, 1999.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 154, an act to allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on federal land.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*H.R. 154—An act to allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on federal land*

Summary: H.R. 154 would direct the Secretaries of Agriculture and the Interior to establish fees for commercial filming conducted on public lands, and would authorize agencies within their departments to retain and spend any resulting receipts without further appropriation action. The act would direct the Secretaries to require permits for filming and to establish a schedule of rates, which would be based on factors such as the number of persons on site and the duration of filming.

H.R. 154 could affect both the collection and use of offsetting receipts; therefore, pay-as-you-go procedures would apply. For the most part, any change in offsetting receipts would be matched by an equal change in spending, though not necessarily in the same fiscal year, resulting in no net impact on direct spending. For two agencies, however, there would be a small net increase (less than \$500,000 annually) in direct spending because these agencies would be able to spend receipts that they currently must deposit in the U.S. Treasury. CBO estimates that in aggregate any increases or decreases in offsetting receipts and spending would probably be at most a few million dollars a year.

The act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

**Commercial Filming on Public Lands Under Current Law:** Under current law, the Forest Service (which is in the Department of Agriculture) and most land management agencies within the Department of the Interior (DOI) already allow commercial filming and similar activities on lands they administer. The vast majority of films made on these lands are commercials or other short-duration projects, such as still photography; only a handful made each year are full-length feature films. All of the federal land management agencies are allowed to charge some fees for filming on public lands, but the rates they are allowed to charge, the basis of those charges, and the rules governing spending of the resulting proceeds vary widely.

The Forest Service (which is authorized to set market-value rates for filming in national forests) charges up to \$600 per day for the 1,500 to 2,000 permits it issues annually. The Forest Service collected an average of about \$400,000 annually over the last few years from such fees, which it returned to the Treasury. The agency also may charge a \$200 application fee and may recover other direct costs, if any, and it is presently developing regulations to implement such charges under existing authority. The Bureau of Land Management (BLM) has authority similar to that of the Forest Service and charges between \$100 and \$750 per day as a land rental fee. Receipts from rentals are returned to the Treasury, but the agency is allowed to retain and spend additional fees collected for processing applications and for cost reimbursement. In the few instances where the agency imposes such additional fees, they range from \$200 to \$1,000 per application. BLM issues between 300 and 400 applications annually, which CBO estimates earn the federal government less than \$100,000 a year in total.

The National Park Service (NPS) and the U.S. Fish and Wildlife Service (USFWS) are more limited in their authority to charge fees because they may not impose fees that are greater than the amounts necessary to cover the cost of processing of applications and the direct costs of activities attributable to the filming, such as on-site monitoring. After the Forest Service, the NPS issues the most filming permits—over 900 for each of the last three years. On average over this period, the NPS earned \$1 million or less per year, or about \$1,000 per film, which includes application fees and cost reimbursements as well as small donations (about \$50 per film). All of these amounts were retained and spent by the agency. The USFWS, which currently issues fewer than 100 permits per year, imposes no charge for processing applications or cost recovery.

**Estimated cost to the Federal Government:** CBO cannot estimate the amount of offsetting receipts that would be earned under the new authorities contained in H.R. 154. Nevertheless, because this legislation also would allow the agencies to spend whatever new receipts are earned, we estimate that enacting H.R. 154 would have no significant net impact on the federal budget over the next several years. The act would probably result in a net increase in

spending because it would provide new authority for the Forest Service and BLM to retain and use receipts they currently return to the Treasury, but CBO estimates that this provision would have little effect.

**Impact on the National Park Service.**—The major potential budgetary impact of the legislation would be on the NPS. But the act's effect would depend on many behavioral factors that cannot be predicted with confidence, and it is therefore difficult to estimate how much the NPS would earn and spend under H.R. 154. Based on information provided by that agency, we expect that it would most likely follow the fee structure used by the Forest Service. It is not clear whether adopting this structure would result in any additional receipts. In fact, based on the limited information available, it appears that the NPS already earns more on commercial filming than the Forest Service—on fewer permits. The most likely reason for this is the relatively high amounts collected by the NPS as cost recovery, probably because filming on NPS sites generally requires more monitoring and agency resources. (In contrast, the Forest Service seldom provides much on-site assistance.) It is also possible that longer, more personnel-intensive films are shot at NPS sites or that the agency waives fees less often than Forest Service does for educational films.

The NPS might earn additional receipts under H.R. 154 because the new authority to charge rates that exceed actual costs and to spend funds without appropriation action may induce the agency to promote filming at more sites. In addition, adopting the Forest Service fee schedule would probably result in higher fees on some films made at sites that already allow filming because the NPS could add up to \$600 per day to the amounts it already charges for processing applications and recovering other direct costs. It is also possible, however, that the agency would lose some collections if it raises its fees because the number of films made in park units could drop in response. In fact, the agency has indicated that it intends to raise certain fees in order to discourage overuse of some park units. In either case, CBO does not expect the impact on receipts to be great. The most the agency could lose is the \$1 million that it now collects each year. Potential gains could be more, but we estimate that they would total no more than a few million dollars a year.

It is possible that H.R. 154 would have little or no impact on NPS filming activities, particularly if other, nonmonetary factors do not change. For example, the film industry has indicated that an important factor in its choice of filming sites is agency cooperation. As a result, many film makers use Forest Service or nonfederal lands rather than NPS sites because applications are processed more quickly and their presence is more readily accepted. Thus, the industry may continue to use lands administered by the Forest Service (regardless of any rate increases that agency may impose as a result of this act) or owned by private parties or other governmental entities (some of whom presently charge more than any federal agency).

**Impact on Other Federal Agencies.**—CBO expects that the act would have little effect on the budget of the USFWS because that agency, while very likely to charge fees once it has the authority

to do so, would probably not promote more filming on its lands for environmental reasons. We also expect that the act would have little impact on BLM, which would be allowed to retain receipts from land rentals that currently are returned to the Treasury. BLM already charges fees that are close to those that the Forest Service now charges or that the NPS would charge under the bill. BLM would be unlikely to increase its rates under the act because higher fees would be uncompetitive. Spending the portion of the \$100,000 a year it now returns to the Treasury would not have any significant impact. Finally, H.R. 154 would probably have no effect on receipts of the Forest Service, because the agency already charges value-related fees for filming and will also be implementing cost-recovery charges under existing authority. Spending of these amounts would have little effect on the budget.

This estimate is based on information obtained from the Association of Independent Commercial Producers, the Motion Picture Association, and federal agencies, including DOI, the Forest Service, the NPS, BLM, and USFWS.

**Pay-as-you-go considerations:** The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or governmental receipts (revenues). CBO estimates that the net impact of H.R. 154 on direct spending would be less than \$500,000 a year over the next several years.

**Intergovernmental and Private-Sector impact:** H.R. 154 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

**Previous CBO estimate:** On March 19, 1999, CBO prepared a cost estimate for H.R. 154 as ordered reported by the House Committee on Resources on March 3, 1999. The two versions of the bill differ somewhat, but we estimate that neither would have a significant budgetary effect.

Estimate prepared by: Deborah Reise.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 154. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of H.R. 154, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

At the Subcommittee hearing a representative from the National Park Service testified in support of both S. 338, and S. 568. However, the National Park Service deferred to the Department of Justice on some unidentified first amendment concerns on both S. 338

and S. 568. A copy of the administration's testimony at the subcommittee hearing follows:

STATEMENT OF STEPHEN SAUNDERS, DEPUTY ASSISTANT  
SECRETARY FOR FISH AND WILDLIFE AND PARKS

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 338, a bill to provide for the collection of fees for the making of motion pictures, television productions, and soundtracks on units within the Department of Interior, and for other purposes and S. 568, a bill to provide for commercial filming activities on the Department of Interior lands. The Administration is in favor of this concept and has supported similar legislation that passed the House in the 105th Congress as well as H.R. 154 introduced by Representative Hefley in the 106th Congress. However, the Department of Justice has identified first amendment concerns with S. 568 and S. 338 as currently written. We will defer to the Department of Justice on these concerns.

S. 338 and S. 568 would allow the Secretary of the Interior to charge a fee sufficient to provide a fair return to the government for filming on all lands administered by the Department of the Interior. S. 338 would also repeal the present regulations governing the issuance of film permits in parks, and refuges. Under existing regulation 43 CFR 5.1(b), the National Park Service (NPS), and the U.S. Fish and Wildlife Service (FWS) are prohibited from charging fees for the making of motion pictures, television productions, or sound tracks on NPS or FWS units. The regulation does not prohibit NPS and FWS from recovering the costs associated with administering film permits.

Units of the park system, the wildlife refuge system, and Bureau of Land Management (BLM) lands have played significant roles in many different types of motion picture, television productions, and commercial advertisements. Over the past three fiscal years, more than 1,000 permits were issued for filming on BLM-managed lands. NPS has issued approximately 4,500 filming permits during this time. Many of the permits issued by NPS, BLM, and FWS are for small productions, some of which are commercial in nature, others of which are educational. However, a significant number of permits are issued to makers of major television and motion picture productions.

Although parks and refuges were created to conserve and protect natural resources and wildlife, they have played important roles in many films with high grossing revenues. The 400-years-old fortification known as "El Morro" in the San Juan National Historic Site was used in the movie "Amistad" to depict a slave-trading market; the white sands of White Sands National Monument were used in the movie "Star Wars" to depict an otherworldly landscape; and the Linville Falls Trail in Blue Ridge Parkway was used for the ambush scene in "Last of the Mohicans." These are but a few of the hundreds of memorable

films that have been made in national parks over the years. The list includes "Dance with Wolves," filmed in part in Badlands National Park, "The Deer Hunter," made in part in Lake Chelan National Recreation Area, and "In the Line of Fire," filmed at several NPS sites throughout the National Capital Region. FWS units have also played host to memorable motion pictures. The exciting chase scene at the opening of "The Raiders of the Lost Ark," with Harrison Ford was filmed in Hanalei and Huleia National Wildlife Refuges. The movie "Uncommon Valor," a story about a Vietnam War veteran, was filmed in part at the same refuges in Hawaii. Recently, filming of the movie "Random Hearts" with Harrison Ford occurred in part at Patuxent Research Refuge in Maryland.

It is often the unique nature of public lands that attracts filmmakers. In some cases, public lands may be the only option for a filmmaker whose story is inextricably tied to something that may only exist on public lands. We believe the public has the right to be compensated for the commercial use of this uniqueness.

The BLM filming policy is governed by the 43 CFR 2920 regulations, which allows the agency to recover its costs for processing and monitoring permits and to charge fair market value for filming. Cost recovery can be substantial on major productions. The BLM allows each of its state offices to set their own fee schedules based on market values of filming activities on other lands. The California office, for instance, will charge up to \$600 per day per location for the use of its public lands for filming. The BLM's fee schedule does not appear to be a deterrent for filming on the public lands managed by BLM, as these lands have been used as sites for such films as "The Horse Whisperer," "The River Wild," and "Maverick."

Other land-owning governmental entities charge even higher fees than our sister federal agencies. The Navajo Nation, for instance, charges up to \$2,000 a day for the use of Monument Valley, the site of many memorable films. Similarly, the city of Beverly Hills in California charges fees that exceed \$2,000 per day for filming in its city parks.

NPS and FWS are also concerned that their inability to charge fees may be attracting filmmakers to Department lands and facilities who would otherwise seek alternative locations if fees were charged for the use of Department lands and facilities. The mission of NPS and FWS is to protect natural and cultural resources and wildlife. These agencies were not set up to attract filming business. Yet, by prohibiting these agencies from establishing fees the present regulations make these public lands more attractive to filmmakers whose films could also be made on other governmental or tribal lands.

The authority given to the Secretary in S. 338 and S. 568 would allow the Secretary to establish a schedule of rates for fees based on such factors as the number of peo-

ple on site, duration of activities, the use of “special use” areas including wilderness, and any surface disturbances authorized under a permit. Both bills allow for fees to be remitted to a special account in the Treasury and to be available to the Secretary. S. 338 would allow the fees collected for filming on Interior public lands and facilities to be distributed in an eighty/twenty split. Eighty percent of the fees in the account would go back to the park, refuge unit, or BLM office that generated the fees. Twenty percent of these fees would be available for distribution through the region where the fee was collected. S. 568 would allow the park, refuge unit, or BLM office to retain one hundred percent of the filming fees collected to be used for visitor services or resource management projects and programs. We support fees being retained by the agencies and would like to work with the committee on the appropriate formula for distribution of these fees.

Subsection (b)(4)(B) of S. 338 would require each individual under the permit to pay the regular entrance fee into the park, refuge unit or BLM office. Under current regulations, we do not charge an entrance fee for commercial or other activities unrelated to recreation. By definition filming in a park, refuge unit, or BLM office would be under the category of a non-recreational visit and therefore would not be subject to an entrance fee. We recommend changing this subsection in the legislation to conform to our current regulations.

Subsection (b)(4)(e) of S. 338 sets up a civil penalty schedule for a violation of the act. The Department of the Interior has the authority under current laws and regulations to prosecute anyone who violates this Act. Since we would use these existing laws and regulations, there is no need for this subsection of S. 338.

The Department is extremely supportive of the goals of S. 338 and S. 568. The public deserves to receive a fair return for the use of Department lands and facilities that play an important role in motion pictures, television productions, and soundtracks. The public will also benefit from a fee distribution system that would allow each land management agency to retain the fees generated under these permits. We are confident that S. 338 and S. 568 would accomplish this goal without compromising the Department’s primary mission of protecting the resources under its care. Thank you for this opportunity to testify. I would be happy to answer any of your questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by H.R. 154, as ordered reported.